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via Hand Delivery

Magalie Roman Salas, Secretary Office of The Secretary Office of Managing Director Federal Communications Commission 445 Twelfth Street, SW, TW-A325 Washington, DC 20554

> Ex Parte Presentation of Bachow/Coastel, Re:

> > L.L.C., WT Docket No. 97-112, CC Docket No. 90-6

Dear Ms. Salas:

Bachow/Coastel, L.L.C. ("Bachow/Coastel"), pursuant to section 1.1206(b)(2) of the Commission's rules, and by its attorneys, herewith files with the Commission an original and one copy of its summary of its ex parte presentation at the Commission on Thursday, June 1, 2000, and the paper handout from that meeting. On that date, Bachow/Coastel Managing Director Jay D. Seid, Esq. and its Vice President of Operations, Robert Ivanoff, along with Bachow/Coastel's counsel, Louis H. Dupart, Esq. and Steven J. Hamrick, Esq. of Fleischman and Walsh, L.L.P., met with Thomas J. Sugrue, Bureau Chief; James D. Schlichting, Deputy Chief; and Michael A. Ferrante, Esq. of the Wireless Telecommunications Bureau. Bachow/Coastel is filing two additional copies of this summary with the Commission due to the second docket number attached to this proceeding.

In this meeting, Bachow/Coastel stated that the primary reason for the Commission's proposed rules in its Second Further Notice of Proposed Rulemaking ("Second FNPRM"), which

⁴⁷ C.F.R. § 1.1206(b).

Magalie Roman Salas June 2, 2000 Page -2-



is to provide reliable cellular service in the coastal areas of the Gulf of Mexico,² is no longer at issue, because licensees currently provide reliable cellular service in those geographic areas. The Commission's current rules provide for reliable cellular service in the area recognized in the Second FNPRM as the "Coastal Zone," and for Special Temporary Authorizations and Interim Operating Authorizations to address temporary service deficiencies. As there is no significant issue for resolution, the Commission should terminate this rulemaking proceeding.

The Second FNPRM's proposed rules raise serious legal concerns for the Gulf-based carriers. The United States Court of Appeals for the District of Columbia Circuit's remand decision³ required the Commission to address the Gulf-based carriers' unique operating characteristics, but the Second FNPRM does not do so. The Second FNPRM's proposed rules favor the land-based carriers.

Bachow/Coastel recognizes that the situation concerning Florida's Gulf coast is a unique situation. Bachow/Coastel proposes that the Commission grant Interim Operating Authority to land-based carriers to achieve reliable coverage along Florida's west coast. The Commission's current rules provide for the solution to any service issue along the Gulf coast.

If you have any questions concerning this filing, or if you require additional information, please do not hesitate to call.

Cordially,

Steven J. Hamrick

Counsel to Bachow/Coastel, L.L.C.

Attach.

See Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico, 65 Fed. Reg. 24168-24169 (April 25, 2000).

See Petroleum Communications, Inc. v. Federal Communications Commission, 22 F.3d 1164 (D.C. Cir. 1994).



(WT Docket No. 97-112)

June 1, 2000

Bachow/Coastel, LLC

Review of the History of Proposed Rulemakings

Timetable

d Area Rulemaking for the

of Mexico

January 1993

Third ircuit Court of Appeals

Dion

May 1994

Proposed Rulemaking

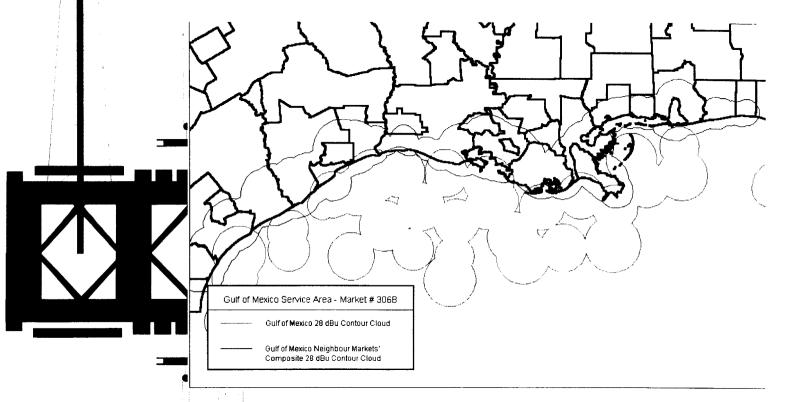
March 1997

Proposed Rulemaking

April 2000

• The underlying premise for the proposed rulemaking has resolved itself over the past 7 years.

Current rules provide reliable service in the Coastal Zone



- Gulf Carriers have "no control" over land based 28 dBu contours
- Interference problems exist to the Gulf Carriers in the overlap area

Contrary to the rulemaking's upfront conclusion...

• The public <u>is</u> currently receiving reliable <u>service</u> in coastal areas

Gulf carriers have economic incentive to ide quality service in high traffic areas o benefit to warehouse spectrum

Coastel has nearly doubled the number of sites in 3 years

- 3 A-band land based carriers have implemented land based co-location systems
- If there is no significant issue, why have rulemaking for rulemaking's sake?

There are more efficient methods to address this issue

- This is not an industry-wide issue
 - Only 6 land based carriers bothered to me ments
 - urrent rules provide tunities to address temporary
 - service deficiencies
 - STA (Special Temporary Authorizations)
 - IOA (Interim Operating Authority)

The proposed rules raise serious legal concerns to the Gulf Carriers

• The proposed rules do not address the court remained

oposed rules do not address the real rence problem faced by the Gulf

An emended rulemaking processes will likely result in the same parties seeking court intervention and is a waste of resources

Remand required rulemaking to address Gulf Carriers' issues, but proposed rulemaking does not

• Gulf Carriers must continuously deal with interference from land carriers

plaints has been time consuming, ensive and exposed us to delaying and ying tactics.

• Effectively, if a Gulf Carrier loses a platform (or a lease) it automatically is stripped of coverage area

Remand required rulemaking to address Gulf Carriers' issues, but proposed rulemaking does not (continued)

• SAB contour formulae rules benefit <u>the</u> Ind carriers

rerence in received antenna height rent SAB rules produce unequal at the border

• The proposed rules do not solve the inequity, but actually perpetuate the inequity into the Exclusive Zone

The Florida Coast is a unique situation

• There are no oil/gas platforms off the Florida

Presidential presidentian

Coas ... Presidential proclamation

are regulatory measures under g rules which result in reliable ge all along the Florida Coast im Operating Authority

• Florida Coast only involves a total of 5 carriers

Recommended Action

Utilize the existing Rules

Interm Operating Authority for the was coast of Florida

Ref an industry working group to mend alternative solutions to the temporary loss of platforms